

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

EDWARD E. GEMMILL

PLAINTIFF

V.

CIVIL ACTION NO. 1:05cv692-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

**ORDER**

This Court entered a separate order on two of Defendant's motions *in limine* which are docketed at [77] and [78]. This order addresses those others filed by Defendant dealing with [75] bifurcation of trial proceedings; [76] excluding evidence of or references to any grand jury or government investigation relating to Defendant's response to Hurricane Katrina; [79] precluding the mention of or introduction of evidence concerning motions to change venue filed by Defendant in this or any other cause of action; [80] precluding evidence of or reference to claims for punitive or extra-contractual damages prior to a finding of liability; and [81] excluding evidence of any of Defendant's out-of-state conduct. Plaintiff responded to all of these motions.

Plaintiff has no objection to bifurcation of trial with respect to the coverage claim, on the one hand, and the punitive/extra-contractual damages, on the other. He requests only that he be allowed to address punitive damages in *voir dire*, which is reasonable. If the jury is given a punitive damages instruction, all counsel will be able to make a separate statement on that issue.

Plaintiff also has no objection to the exclusion of evidence of or reference to any grand jury or government investigation involving Defendant; being precluded from mentioning or introducing evidence of motions for change of venue filed by Defendant; or to the exclusion of evidence of Defendant's out-of-state conduct. With respect to the motion to preclude evidence of or reference to claims for punitive or extra-contractual damages, Plaintiff seeks a ruling consistent with those made in *Broussard v. State Farm Fire and Casualty Co.*, Civil Action No. 1:06cv6, and *Tejedor v. State Farm Fire and Casualty Co.*, Civil Action No. 1:05cv579, and similar to his position as to bifurcation: that allowance be made for this topic to be mentioned in *voir dire*. This is likewise a reasonable request.

Accordingly, **IT IS ORDERED:**

Defendant's Motions [75], [76], [79], [80], and [81] *in limine* are **GRANTED IN PART** and **DENIED IN PART**, consistent with the above comments. Plaintiff may not refer to or introduce evidence regarding any grand jury or government investigation involving Defendant; may not mention or introduce evidence of motions for change of venue filed by Defendant in this or any other cause of action; and may not introduce evidence or refer to Defendant's out-of-state

conduct. Plaintiff will be allowed to address the issue of punitive/extra-contractual damages in *voir dire* subject to further direction from the Court. The underlying coverage/contractual claim and the entitlement to punitive/extra-contractual damages will be determined in a bifurcated proceeding, with counsel being allowed to make statements at the beginning of each phase.

**SO ORDERED** this the 12<sup>th</sup> day of February, 2007.

*s/L. T. Senter, Jr.*

L. T. Senter, Jr.  
Senior Judge